



Public Employees for Environmental Responsibility

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March 14, 2006

VIA FACSIMILE: 503-230-4019

Christina Brannon, FOIA Officer
Mail Stop DK-7
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208

RECEIVED BY BPA FOIA OFFICE THIS DATE: 3/15/06
DUE DATE: 4/12/06
LOG # 06-018

perfected
3/20
4/15/06

Dear Ms. Brannon:

This is a request under the Freedom of Information Act (5 U.S.C. § 552). PEER requests that a copy of the following document(s) be provided, as promptly as possible, but no later than 20 business days from today (by April 12, 2006):

1. For the period January 1, 2004 through the present, all documents reflecting any communications (including e-mail) between the Bonneville Power Administration (BPA) and Senator Larry Craig, or any member of his staff or person working in his office, pertaining in any manner to the Fish Passage Center or any persons working at the Center.
2. All documents that BPA relies upon to justify closing the Fish Passage Center.
3. All documents pertaining to the detailing of any BPA employee or contractor to work on Senator Craig's staff or on any committee or sub-committee of which the Senator is a member.
4. For the period January 1, 2004 through the present, all documents reflecting any type of complaint about the performance of the Fish Passage Center or the performance of any person who worked at the Center.



5. For the period January 1, 2005 through the present, all documents pertaining to the arguments raised by the Plaintiffs or Amici in *NWF, et al. v. National Marine Fisheries Service, et al.*¹ seeking additional spill or the decision(s) of the U.S. District Court for the District of Oregon to require additional spill.
6. All documents that pertain to the decision not to continue funding for the work of Michele DeHart, Thomas Berggren, and Margaret Filardo.
7. All documents that pertain in any manner to or discuss restrictions or constraints placed upon any BPA employee, contractor, or grant recipient regarding communications with the media, Tribal or State governments or officials, environmental groups (e.g., National Wildlife Federation), or State or Federal courts.

I trust that you will take immediate steps to communicate this request to all appropriate personnel and components of BPA in order to insure that no potentially responsive documents/records (including e-mail) are destroyed or altered.

PEER represents Michele DeHart, Thomas Berggren, Jerome McCann, Margaret Filardo, David Benner and Henry Franzoni, all of whom previously worked at the Fish Passage Center (FPC). In addition to representing these individuals PEER is investigating the closure of the Fish Passage Center.

PEER requests a fee waiver for all fees associated with this request. In support of its fee waiver request, PEER provides the following information:

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of BPA and its employees.

2. For the disclosure to be "likely to contribute" to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested information concerns the controversial closure of the Fish Passage Center and the circumstances that prompted the closure of the Center.

¹ Full reference: *NWF, et al. v. National Marine Fisheries Service, et al.*, 3:01-cv-00640-RE.

Information that may reveal what influenced BPA's decision making on this issue is likely to contribute to the understanding of BPA's operations.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The broader public interest in this request concerns BPA's elimination of the Fish Passage Center, which many stakeholders in the region believed was a highly successful component of the overall fish and wildlife management program. Release of the requested information will provide the public with a greater understanding of the issue.

Moreover, PEER intends to provide the requested information to the general public through-

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. In addition, PEER has repeatedly demonstrated the ability to generate nationwide news coverage concerning activities occurring within individual units of the government.

4. The disclosure must contribute "significantly" to public understanding of government operations or activities.

While it is difficult to warrant in advance of seeing it just how significant the information will be to the general public, the nature of the information will shed some direct light on the internal workings of BPA. BPA activities significantly influence the quality of the environment in the region. Therefore, BPA's decision to terminate a successful component of the fish and wildlife program in the region will be better understood through release of the requested records.

5. The extent to which disclosure will serve the requestor's commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public agencies addressing significant environmental issues. To that end, PEER is

designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.

As previously noted, disclosure is in no way connected with any commercial interest of PEER.

I look forward to the prompt release of the requested records.

Sincerely,

Richard E Condit

NPR For/ Richard E. Condit
General Counsel

Nancy P. Ruggeri

Nancy P. Ruggeri
Staff Attorney/Field Director